REMARKS

Claims 1-4 are pending in this application. Claims 1 and 2 are rejected. Claims 3 and 4 are allowed, subject to objection. None of the claims are currently amended. Reconsideration is requested.

Claim 1 is rejected under 35 U.S.C. 102(e) as being anticipated by US 2005/0003827 (Whelan). In particular, the Office cites Whelan at the abstract and paragraphs [0116, 0119 and 0213]. Whelan describes a server-controlled architecture where data collection and power adjustment decision are executed differently than in the claimed invention. Applicant therefore respectfully traverses.

Whelan uses "signal data and network traffic statistics **collected by mobile units** to determine optimal configuration settings for the access points." (Abstract, emphasis added) Similarly, paragraph [0016] states "the disclosed channel, coding, and power management system uses signal data and network traffic statistics **collected by the mobile units** to determine optimal configuration settings for the access points." (emphasis added) Claim 1 of Whelan also recites the feature as a limitation. Whatever purpose there may be for using data collected by mobile units, claim 1 recites a "program product for a first access point" including "logic for detecting that a second access point is also using the radio frequency channel." Consequently, there is no need to rely upon data collected by mobile units. Among the advantages of the claimed invention over Whelan is that there is no need for mobile units to be modified to provide signal data and network traffic statistics, which is something that products currently shipping do not do.

Adjusting access point power based on data collected by mobile units is only one drawback associated with reliance on a central management server model. The central

management server must also be in communication with each controlled device. This is a drawback because if some of the access points are not controlled by the same entity, then establishing communication and control may be impractical. One example of this is in shared office buildings and apartments. Each tenant operates independently, so the central management server does not help to arbitrate power adjustment between the access points of different tenants. Even in an unshared facility the central management server introduces a scalability problem because it cannot support an unlimited number of access points. Further, the central management server creates a single point of failure that can affect all access points. Still further, the central management server is an additional piece of equipment to purchase and maintain. The inventors recognized these drawbacks in the central management server architecture and conceived the claimed invention which operates in a distributed manner, i.e., the APs manage themselves. The distributed nature of the claimed invention helps to avoid scalability and single point of failure problems.

At page 3 of the Office Action the examiner asserts that detection of interference and issuing commands to adjust power by Whelan's central management server is equivalent to performing those functions in the access points. In view of the explanation above it will be appreciated that the two models are not even nearly equivalent. For example, in the distributed model the access points of different tenants cooperate with one another automatically, without any need for connecting them to a central management server. Indeed, even if some of the access points are not compliant with the invention, the access points that are compliant with the invention function unilaterally to improve overall network performance. Note that there is no need to purchase and manage an extra piece of equipment to realize these advantages, and that the failure of one device does not eliminate power control from the entire network.

Applicant notes that the examiner relies upon the provisional application priority date of Whelan to qualify the reference as prior art. Applicant requests that the examiner produce evidence that the cited features are disclosed in that provisional application.

Claim 2 is rejected under 35 U.S.C. 103(a) based on Whelan in view of US 2005/0195786 (Shpak) and further in view of US 5,345,598 (Shpak). The Office concedes that Whelan fails to disclose logic for adjusting transmit power in response to a message from another access point, but asserts that Shpak describes an analogous transmit power control (TPC) message at [0008, 0040]. Shpak 2005/0195786 does not qualify as prior art under 103(a) because it was filed subsequent to this application. Further, claim 2 distinguishes the cited combination for the same reasons stated above with regard to claim 1. Withdrawal of the rejection is therefore requested.

This application is considered to be in condition for allowance and such action is earnestly solicited. Should there remain unresolved issues that require action, it is respectfully requested that the Examiner telephone Applicants' Attorney at the number listed below so that such issues may be resolved as expeditiously as possible.

Respectfully Submitted,

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Date

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